



October 6, 2023

The Honorable Sarah Netburn  
United States Magistrate Judge  
Southern District of New York  
Thurgood Marshall Courthouse  
40 Foley Square Room 430  
New York, NY 1000

Re: *Lynne Freeman v. Tracy Deebs-Elkenaney et. al.*, Case No. 22 Civ 2435 (LLS) (SN)

Dear Judge Netburn:

We write on behalf of Plaintiff Lynne Freeman pursuant to the Court's Order dated October 3, 2023 which granted Plaintiff's request to extend the summary judgment and Daubert motion briefing deadlines by 30 days and ordered the parties to file a proposed revised briefing schedule by October 7, 2023.

Plaintiff proposed a schedule with the approved initial 30-day extension and then subsequent dates designed to avoid the holidays and ensure that all parties had adequate time for their briefing. Defendants have refused that schedule, insisting that Plaintiff only have another 21 days despite this Court's prior Order. We met and conferred yesterday and unfortunately were unable to agree upon a schedule. Below is Plaintiff's proposed schedule:

**Summary Judgment Motions**

- By Monday, (previously October 20) November 20, 2023, Plaintiff shall file one motion for summary judgment against all Defendants with a supporting brief not to exceed 30 pages.
- By Friday, (Previously November 22) January 19, 2023, the Publishing Defendants and the Prospect Defendants shall each file a brief constituting their opposition to Plaintiff's motion and their affirmative motion for summary judgment. Each shall not exceed 50 pages.
- By Tuesday, (previously December 22) March 19, 2023, Plaintiff shall file one brief constituting her reply brief in support of her motion against the Publishing Defendants and her opposition to these defendants' motion. Plaintiff shall file a second brief constituting her reply brief in support of her motion against the Prospect Defendants and in opposition to these defendants' motion. Each brief shall not exceed 40 pages.

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- By Thursday, (previously January 12) April 18, 2024, the Publishing Defendants and the Prospect Defendants shall each file a brief constituting their reply in further support of their motion. Each such brief shall not exceed 15 pages. Daubert Motions.

**Daubert Motions:** Plaintiff shall file her Daubert motion, with a brief in support not to exceed 20 pages, by Monday, November 20, 2023 (the same date as her summary judgment motion). On January 19, 2023, the same date as Defendants' initial summary judgment briefing, they shall file their Daubert motion, not to exceed 40 pages, both challenging Plaintiff's expert(s) and in opposition to Plaintiff's motion. Then on March 19, the same day as Plaintiffs' summary judgment opposition brief, she shall file her brief in opposition to Defendants' Daubert motion, which shall not exceed 20 pages.

Plaintiff's proposal extends her initial briefing by the 30 days approved by the Court, and then pushes Defendants' response deadline out until after the holidays and New Years to ensure they have more than sufficient time.<sup>1</sup> Defendants were only willing to extend Plaintiff's deadline by 21 days<sup>2</sup> despite this Court's order granting 30-days, thus necessitating this briefing.

Our proposed schedule then grants Plaintiff 60 days (as opposed to the original 30 days) to and including March 19, 2023, to file opposition and reply briefing since that briefing will include two summary judgment briefs of up to 40-pages each and a Dauber brief of up to 20-pages for a total of 100 pages of briefing.<sup>3</sup>

Defendants seem to be concerned that Plaintiff's proposed schedule delays the case too long. However, Plaintiff's proposed schedule only concludes the briefing schedule approximately 90 days after Defendants' proposed schedule and, we submit, is reasonable given the volume of materials to be considered and the wide scope of legal and factual issues to be addressed. Thus, we respectfully request that the Court grant Plaintiffs' proposed schedule.

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<sup>1</sup> Now that expert discovery is completed, there is no reason Defendants cannot be preparing their affirmative summary judgment briefing such that the Court's initial schedule already built in appreciably more time for them than Plaintiff had. It is thus unclear that they need the additional time, yet Plaintiff's proposed schedule grants Defendants additional time as well to address any suggestion of inequity.

<sup>2</sup> Defendants' counsel advised us today that they are agreeable to a 24-day extension.

<sup>3</sup> Our October 2, 2023 letter to the Court also requested an additional 30 days for this deadline out of concern that the 30 days allotted would be insufficient to properly address three motions consisting of up to 100 pages addressing technical issues (for the in limine motions) and very document intensive arguments (for summary judgment). It is not clear from the Court's October 3, 2023 Order whether that request was granted or if the Court considered that request.

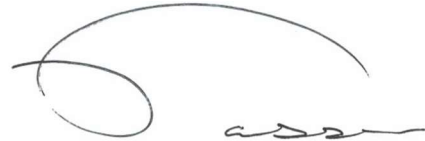
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We thank the Court for its time and attention to this matter.

Respectfully submitted,

**Reeder McCreary, LLP**

A handwritten signature in black ink, appearing to read 'Mark D. Passin', is written over a horizontal line.

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cc: All counsel of record (via ECF)